



# புதுச்சேரி மாநில அரசிதழ்

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No.	Puducherry	Tuesday	12th	December	2017

### பொருளடக்கம்

### SOMMAIRES

### CONTENTS

	பக்கம்		Page		Page
தொழில் நீதிமன்றத் தீர்ப்புகள் ..	1346	Sentence arbitral du travail ..	1346	Award of the Labour Court ..	1346
		de tribunal.			
அரசு அறிவிப்புகள் ..	1352	Notifications du Gouvernement ..	1352	Government Notifications ..	1352
ஒப்ப அறிவிப்புகள் ..	1359	Avis d'Adjudications ..	1359	Tender notices ..	1359
சாற்றறிக்கைகள் ..	1360	Annonces ..	1360	Announcements ..	1360

**GOVERNMENT OF PUDUCHERRY  
LABOUR DEPARTMENT**

(G.O. Rt. No. 162/Lab./AIL/T/2017,  
Puducherry, dated 23rd October 2017)

**NOTIFICATION**

Whereas, the Award in I.D. (L) No. 2/2017, dated 28-9-2017 of the Labour Court, Puducherry in respect of the industrial dispute between the Management of Puducherry Distilleries Limited, Puducherry and Puducherry Distilleries Limited Workers Union, Puducherry over regularisation of 27 casual labourers has been received;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947) read with the notification issued in Labour Department's G.O. Ms. No. 20/91/Lab./L, dated 23-5-91, it is hereby directed by the Secretary to Government (Labour) that the said Award shall be published in the Official Gazette, Puducherry.

**S. MOUTTOULINGAM,**  
Under Secretary to Government  
(Labour).

**BEFORE THE INDUSTRIAL TRIBUNAL-CUM-  
LABOUR COURT AT PUDUCHERRY**

*Present : Thiru G. THANENDRAN, B.COM., M.L.,  
Presiding Officer,*

*Tuesday, the 28th day of September, 2017*

**I.D. (L) No. 2/2017**

The President/Secretary,  
Puducherry Distilleries Limited  
Workers Union, Ariyankuppam,  
Villianur (Post), Puducherry-605 110. ..Petitioner

Vs.

The Managing Director,  
M/s. Puducherry Distilleries Limited,  
R.S. No. 144 and 145,  
Ariyankuppam,  
Villianur, Puducherry-605 110. ..Respondent

This industrial dispute coming on 26-9-2017 before me for final hearing in the presence of Thiru M. S. Subramanian, Advocate for the petitioner, the respondent being called absent and set-*ex parte*, upon hearing the petitioner and perusing the case records, this Court passed the following:

**AWARD**

1. This industrial dispute arises out of the reference made by the Government of Puducherry, vide G. O. Rt. No. 7/AIL/Lab./T/2017, dated 19-1-2017 of the Labour Department, Pondicherry to resolve the following dispute between the petitioner and the respondent, viz.,

(i) Whether the dispute raised by Puducherry Distilleries Limited Workers Union against the management of M/s. Puducherry Distilleries Limited, Puducherry over regularisation of 27 casual labourers as listed in Annexure-II is justified or not ? If justified, what relief they are entitled to ?

(ii) To compute the relief, if any, awarded in terms of money, if it can be so computed?

2. The petitioner union have filed the claim statement wherein, it is stated that petitioners were working at the respondent establishment for about 5 years continuously and they are the members of the trade union and the respondent management has not given wage revision and has not regularised them as a permanent worker and the petitioners were working more than 240 days in a year continuously for 5 years and they were doing the duties of the permanent worker and that they are entitled for E.L., C.L., P.L., Medical leave and other monetary benefits from the respondent management and while the permanent workers are paying ₹ 21,606 as monthly wages, the respondent management has given only ₹ 300 to the petitioners though they are doing the same work and the respondent management has also not granted E.L., C.L., P.L., though they are working for about 5 years and even after the request made by the petitioners the respondent management has not accepted the demand and therefore on 29-7-2013 they raised the industrial dispute before the Conciliation Officer and the conciliation proceedings was taken place but, it is ended in failure and that therefore, the conciliation failure report was submitted by the Conciliation Officer on 7-12-2015 and the case has been referred to this Court and the petitioners are entitled for E.L., C.L., P.L., and also entitled for the salary of ₹ 21,606 from the respondent management after deducting ₹ 7,800 which was received by them as monthly wages and each petitioner is entitled for ₹ 3,86,568 for about 28 months.

3. In spite of due service of notice the respondent appeared before this Court in person and even after granting sufficient opportunities the respondent has failed to file their objection as a counter statement and hence, the respondent was set *ex parte*.

4. In the course of enquiry, on the side of the petitioner PW.1 was examined and Ex. P1 to Ex. P4 were marked.

5. The point for determination is:

Whether the dispute raised by the petitioner union over regularisation of 27 Casual Labourers against the respondent management is justified or not and if justified what relief entitled to the said workers.

6. Heard. It is the evidence of the petitioner PW.1 that they have been in service at the respondent establishment for about 5 years continuously and though they have served continuously for about 240 days at the respondent establishment, they have not been regularised by the respondent management and for which they have raised the industrial dispute before the Conciliation Officer and this reference has been sent to this Court for proper adjudication.

7. In support of their case, the petitioners have exhibited Ex. P1 to Ex. P4. Ex. P1 is the copy of the industrial dispute raised by the petitioner union which would evident that petitioners have raised the industrial dispute before the Conciliation Officer on 29-7-2013 for regularisation and for other entitlement. Ex.P2 is the copy of the reply given by the respondent management to the notice of the Labour Officer (Conciliation). It is learnt from Ex. P2 that petitioners are working at the respondent establishment for about five years and they have attended the duty 240 days in a year continuously. Ex. P3 is the copy of the Memorandum, Office Order of the respondent management which would go to show that one of the petitioner Murugan has been appointed as multi-purpose worker and Appointment Order was issued to him on 29-12-2015. Ex. P4 is the copy of the Pay Slips given by the respondent management to Nagasoundarame, Junior Operator which reveal the fact that the respondent management has issued pay slip to Junior Operator at ₹ 21,536 for the month of October, 2013 November, 2013 and December, 2013.

8. It is clearly established through the petitioner evidence and records that petitioners were in service at the respondent establishment for about 5 years continuously and though they have served continuously for about 240 days at the respondent establishment in a year they have not been regularised by the respondent management for which they have raised the industrial dispute before the Conciliation Officer and the conciliation proceedings were failed and that therefore, this reference has

been made to this Court to decide whether the dispute raised by the petitioner union over regularisation of 27 casual labourers against the respondent management is justified or not.

9. On the other hand, though the respondent appeared before this Court in person, they have not filed any counter and subsequently due to his absence, the respondent was set *ex parte*. Considering the fact that the petitioners have established their case, it is to be held that the petitioners are entitled for the claim as prayed by them and hence, the industrial dispute raised by the petitioner union against the respondent management over his regularisation of 27 casual labourers is justified and the petition is liable to be allowed and the petitioners are entitled for the wages on par with the permanent workers of the respondent establishment from the date of raising the industrial dispute.

10. In the result, the petition is allowed and the industrial dispute raised by the petitioner over regularisation of 27 casual labourers against the respondent management is justified and an Award is passed by directing the respondent to pay wages to the petitioners on par with the permanent workers from the date of raising the industrial dispute. No cost.

Dictated to Stenographer, transcribed by her, corrected and pronounced by me in the Open Court on this the 28th day of September, 2017.

**G. THANENDRAN,**  
Presiding Officer,  
Industrial Tribunal-cum-Labour Court,  
Puducherry.

#### ANNEXURE-II

Sl. No.	Name of the employees
(1)	(2)
1	P. Murugan
2	V. Kannan
3	R. Shanmugam
4	S. Jayakumar
5	B. Narayanasamy
6	R. Selvarangam
7	S. Seetharaman
8	R. Ramalingam
9	M. Elumalai
10	S. Sachidanandam
11	S. Kodandaramane

(1)	(2)
12	G. Selvaraj
13	S. Prabakar
14	D. Vijayalakshmi
15	I. Sashikumar
16	A. Rajaram
17	V. Manikandan
18	M. Tiroutchalingame
19	I. Kumar
20	B. Murugan
21	R. Prabakaran
22	D. Mourougane
23	S. Madhan
24	K. Meena
25	V. Sundaramoorthy
26	B. Palanivel
27	R. Marie Roland

*List of petitioner's witness:*

PW.1 26-9-2017 B. Murugan

*List of petitioner's exhibits:*

Ex. P1 29-7-2013 Copy of the industrial dispute raised by the petitioner union.

Ex. P2 19-3-2014 Copy of the reply given by the respondent management to the notice of the Labour Officer (Conciliation).

Ex. P3 7-12-2015 Copy of the memorandum, office order of the respondent management.

Ex. P4 October, 2013 to December, 2013 Copy of the Pay Slips given by the respondent management to Nagasoundaram, Junior Operator.

*List of respondents witness: Nil.*

*List of respondents exhibits: Nil.*

**G. THANENDRAN,**  
Presiding Officer,  
Industrial Tribunal-cum-Labour Court,  
Puducherry.

GOVERNMENT OF PUDUCHERRY  
**LABOUR DEPARTMENT**

(G. O. Rt. No. 164/Lab./AIL/T/2017,  
Puducherry, dated 30th October 2017)

**NOTIFICATION**

Whereas, the Award in I.D.(L)No. 80/2012, dated 06-09-2017 of the Labour Court, Puducherry in respect of the industrial dispute between the Management of Cannanore Spinning and Weaving Mills, Mahe and Thiru B.V. Prasanth, over denial of employment and termination has been received;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947) read with the notification issued in Labour Department's G.O. Ms. No. 20/91/Lab./L, dated 23-5-91, it is hereby directed by the Secretary to Government (Labour) that the said Award shall be published in the Official Gazette, Puducherry.

(By order)

**S. MOUTTOULINGAM,**

Under Secretary to Government (Labour).

**BEFORE THE INDUSTRIAL TRIBUNAL-CUM-  
LABOUR COURT AT PUDUCHERRY**

*Present :* Thiru G. THANENDRAN, B.COM., M.L.,  
Presiding Officer,

*Wednesday, the 6th day of September, 2017*

**I.D. (L) No. 80/2012**

B.V. Prasanth,  
Cannanore Spinning & Weaving Mills,  
Mahe. . . Petitioner

*Versus*

The General Manager,  
Cannanore Spinning & Weaving Mills,  
Palloor - 673 333 (Near Tellicherry),  
Mahe. . . Respondent.

This industrial dispute coming on 18-08-2017 before me for final hearing in the presence of Thiru N.K. Inder Prasad, Counsel for the petitioner, Thiru O.G. Premarajan, Advocate for the respondent, upon hearing, upon perusing the case records, after having stood over for consideration till this day, this Court passed the following:

## AWARD

1. This industrial dispute has been referred by the Government as per the G. O. Rt. No. 129/AIL/Lab./J/2008, dated 23-07-2008 for adjudicating the following:-

(i) Whether the dispute raised by Thiru B.V. Prasanth against the management of M/s. Cannanore Spinning and Weaving Mills, Mahe over denial of employment and termination is justified or not?

(ii) To what relief, Thiru B.V. Prasanth is entitled to ?

(iii) To compute the relief, if any awarded in terms of money, if it can be so computed?

The above reference originally taken on file by the Sub-Court at Mahe which was being functioned as Labour Court in I.D. No. 02/2010 and subsequently when this Industrial Tribunal-cum-Labour Court established in the year 2012, the case has been transferred to this Court and this case was taken on file by renumbering it as I.D (L) No. 80/2012.

2. *The averments in the claim statement of the petitioner, in brief, are as follows:*

The petitioner stated that he has been working in the respondent establishment from 2001 to 2007 as Open Gate Badli and he has received annual bonus from the respondent management and that due to an application filed before Provident Fund Office, Kannur by somebody regarding the issue of provident fund and its allocation the management suspected that the petitioner is behind the abovesaid dispute and illegally terminated the petitioner and denied him the employment and also denied all the benefits accrued from it.

3. *The brief averments in the counter filed by the respondent are as follows:*

The management stated that the petitioner is not an employee of their mill and that Open Gate Badlis are temporary casuals and they are used to wait outside the mill premises at the beginning of each shift, and they are engaged, if required, in each shift or else they will not be permitted even to enter into the mill premises and that the Open Gate Badlis are not in the rolls of mill and they are not the labour or employee of the mill and there is no employee-employer relation between them and hence, the petitioner is not entitled for any benefit from the mill as an employee and he is not entitled for any pecuniary or compensatory relief as claimed in the claim petition.

4. In the course of enquiry on the side of the petitioner WW.1 was examined and Ex.W1 was marked and on the side of the respondent PW.1 was examined and Ex.P1 to Ex.P8 were marked.

5. *The point for consideration is:*

Whether the dispute raised by the petitioner against the respondent management over denial of employment and termination is justified or not and if justified, what relief the petitioner is entitled to?

6. Heard. Even after granting sufficient opportunities either the petitioner or his Counsel did not appear and has not putforth their arguments. Argument was putforth by the side of the respondent. The pleadings of both the parties, the evidence let in by either sides and the exhibits marked on both sides and submission made by the respondent are carefully considered.

7. It is stated in the claim petition that the petitioner was working as Open Gate Badli in the respondent establishment from 2001 till 2007 and he has also received annual bonus from the respondent management and also he has got ESI coverage and that there was some dispute arose between the management and the employees of the respondent mill regarding the issue of provident fund coverage and as the management suspected that petitioner is behind the above dispute the respondent management illegally terminated the petitioner and denied the employment.

8. In order to prove the case, the petitioner workman was examined as WW.1 and Ex.W1 was marked. He has stated in his evidence that he has worked at the respondent establishment from 2001 onwards as a Open Gate Badli and has got ESI coverage and continuously worked till 2007 and somebody has filed an application before the Provident Fund Office, Kannur regarding non-coverage of provident fund the respondent management suspected the petitioner and denied employment to him and terminated him from service and hence, he constrained to raise the dispute before the Labour Department and in support of his case the petitioner has exhibited the ESI Card.

9. On the other hand, it is the case of the respondent that there is no relationship of employer-employee between the respondent management and the petitioner workman and the petitioner is not the employee of the respondent establishment and the Open Gate Badlis are the temporary casuals and they used to wait at the door *i.e.*, outside the mill premises

at the beginning of each shift and they will be engaged if required by the management in each shift otherwise they will not be permitted even to enter into the mill premises and that this claim petitioner is not an employee or labour or worker of the respondent mill and that therefore, he is not entitled for any reinstatement or for any monetary benefits from the respondent mill as an employee.

10. From the pleadings and evidence of both the parties it is clear that following facts are admitted by either sides that the petitioner was working only as Open Gate Badli and he is not a permanent workman of the respondent mill and his employment was denied by the respondent management and no domestic enquiry was conducted and no disciplinary action was taken against the petitioner and no termination order was given to the petitioner and the petitioner has raised the industrial dispute before the Conciliation Officer and since, the conciliation was failed the matter has been referred to this Court for adjudication.

11. This industrial dispute has been referred to this Court for adjudication to decide the dispute raised by the petitioner against the respondent management over denial of employment and termination is justified or not. In this case no termination order is produced before this Court and admittedly, no domestic enquiry was conducted and no show cause notice was issued to the petitioner workman. But, it is the case of the respondent management that there is no relationship of employee-employer between the petitioner workman and the respondent management and that the petitioner is not an employee of the respondent mill and hence, he is not entitled for any benefit as prayed by him. No document is exhibited by the petitioner to prove the fact that he is continuously working from 2001 to 2007 at the respondent mill and he was doing the work of the permanent workers. He himself admitted the fact that he was working as a Open Gate Badli. In such circumstances that the relationship of employee-employer is between the petitioner workman and the respondent management to be established by him and he has also not established that his service was continuous one. Atleast he has to prove the fact that he was working continuously for about 240 days in a preceeding year and furthermore, the petitioner has not exhibited any other documents except Ex.W1 - ESI Card to prove that he was working for about 7 years from 2001 at the respondent establishment and he has also not exhibited the Salary Slip, Identity Card or any other documents to prove the fact that he was working for more than 7 years at the respondent establishment.

12. On this aspect the evidence of WW.1, the petitioner workman in cross-examination is perused which runs as follows:

“I was working as Open Gate Badli in the mills. I started working in 2001 which is seen in Ex.W1. I have no record to show that I have received the bonus from the mill. Except W1 there is no other document to show that I was continuously working in the mill in the year 2007. I have not submitted any application to the Provident Fund Officer, Kannur. There is no other document available to me to show that I have terminated from service. I was assigned to the number 629 by the mill. There is no other document to show that the same. Conciliation was conducted by the Labour Officer in the matter. I do not know whether it is stated in Ex.P7 that I was not worked as workman. We used to wait outside the mill and if, there is employment, we will be called for the same. I used to get an employment in all days, but, there is no record to show the same. Except W1, I have no documents to show that I was working in the mill. I am not satisfied if, I am continued as a Badli employee as before, but, I want post to be permanent. I do not want to be appointed as Badli employee”.

From the above evidence, it is clear that the petitioner himself has admitted the fact that he was an employee of the respondent mill since he was working as Open Gate Badli and the Open Gate Badli was waiting at the gate of the mill *i.e.*, outside the premises of the mill at the time of shift and if, the management requires, the Open Gate Badli will be engaged by them, otherwise the Open Gate Badli has not been permitted to enter into the mill. Further, he admitted in his evidence that he has no record to show that he was working at the respondent mill and he has received salary and also admitted that there is no document for termination. No document is filed by him to prove the fact he is a permanent or temporary employee of the respondent mill for the period of 7 years.

13. On the other hand, the Labour Officer who was examined as PW.1 has exhibited the letter given by the petitioner before the Labour Officer, Mahe as Ex.P1, the letter given by the petitioner before the Regional Administrator, Mahe as Ex.P2, the notice issued by the Conciliation Officer, Mahe to the respondent management as Ex.P3, the reply given by the respondent management as Ex.P4, the Conciliation Notice as Ex.P5, the conciliation failure report as Ex.P6, the confidential report submitted by the Conciliation Officer, Mahe to the Secretary (Labour), Labour Department, Puducherry as Ex.P7, the minutes of the conciliation

proceedings as Ex.P8. These documents would go to show that the petitioner has raised the industrial dispute before the Labour Officer and on failure of the conciliation the matter was referred by the Government to this Tribunal.

14. Admittedly, the petitioner is the Open Gate Badli and he has raised the industrial dispute for his unemployment. The petitioner has not at all stated in his claim statement that on which date his employment was refused by the respondent management and on which date he was lastly permitted to enter into the premises of the respondent management to do his employment and what is the contract between them and nature of work done by him at the respondent mill. Unless, he is a permanent worker or working not continuously for 240 days in a proceeding year no domestic enquiry is required to terminate him from service. In this case, admittedly he was working as Open Gate Badli and it is the case of the respondent that Badli can be utilised only in the absence of the regular employee in the shift, if, all the workers are attended the shift no Badli worker can be engaged by the respondent management and that therefore, as admitted by the petitioner that he was working only as Badli from 2001.

15. Furthermore, the petitioner has not established that he was continuously working for 240 days in a preceeding year and hence, the respondent management have not required to establish that they have conducted the domestic enquiry to terminate the petitioner workman. Furthermore, the petitioner himself has not stated that when he was terminated from service and when he was lastly attended the duty at the respondent establishment and why he has not submitted the petition to the management to claim employment and it is also not stated by the petitioner that whether he was given any salary receipt or not and whether he was given monthly or daily wages or piece rate for his Badli employment and that therefore, the petitioner has utterly failed to establish his case and he has also failed to establish that there is relationship of employee and employer between the petitioner workman and the respondent management and also failed to establish that he is a permanent workman and that therefore, the industrial dispute raised by the petitioner against the respondent management before the Conciliation Officer over denial of employment and termination is not justified and as such the petitioner is not entitled for any relief as claimed by him and hence, this industrial dispute is liable to be dismissed.

16. In the result, this industrial dispute is dismissed. No cost.

Dictated to the Stenographer, transcribed by her, corrected and pronounced by me in the open Court on this the 06th day of September, 2017.

**G. THANENDRAN,**  
Presiding Officer,  
Industrial Tribunal-cum-  
Labour Court, Puducherry.

*List of petitioner's witness:*

WW.1 — 02-02-2012 — B.V. Prasanth

*List of petitioner's exhibits:*

Ex.W1 — Employees State Insurance Corporation Card.

*List of respondent's witness:*

PW.1 — 10-01-2012 — T. Rajkumar

*List of petitioner's exhibits:*

Ex.P1 — 08-08-2007 — Letter given by the petitioner before the Labour Officer, Mahe.

Ex.P2 — 08-08-2007 — Letter given by the petitioner before the Regional Administrator, Mahe.

Ex.P3 — 10-08-2007 — Notice issued by the Conciliation Officer, Mahe to the respondent management.

Ex.P4 — 14-08-2007 — Reply given by the respondent management.

Ex.P5 — 07-12-2007 — Conciliation Notice.

Ex.P6 — 16-05-2008 — Conciliation Failure report.

Ex.P7 — 21-05-2008 — Confidential report submitted by the Conciliation Officer, Mahe to the Secretary (Labour), Labour Department, Puducherry.

Ex.P8 — 21-12-2007 — Minutes of the conciliation proceedings.

**G. THANENDRAN,**  
Presiding Officer,  
Industrial Tribunal-cum-  
Labour Court, Puducherry.